

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Balasubramaniyan et al. Examiner: Adeel Haroon
Serial No.: 10/648,468 Art Group: 2685
Filing Date: August 26, 2003 Attorney Docket No.: 36600.01.2668
Confirmation No.: 5087

Title: **MULTIBAND AND MULTIMODE TRANSMITTER AND METHOD**

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Commissioner for Patents
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9-7-06
Date


Christine Wright

REMARKS FOR PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Sir:

Applicants respectfully submit that the Examiner's rejections include clear errors because one or more limitations are not met by the cited references and the references do not teach what the Examiner alleges.

Claims 21 and 26 have been allowed and claims 9-14 would be allowable if written in independent form.

Remaining claims 1, 3, 4, and 6-8 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Portin (U.S. Patent No. 5,794,159) in view of Heinonen et al. (U.S. Publication No. 2003/0060176) and further in view of Gardner (U.S. Patent No. 6,466,803). The office action admits that neither Portin nor Heinonen disclose the claimed synthesizer nor a synthesizer that is operative to receive first and second VCO output frequency signals wherein the synthesizer is operative to provide the transmitter input signal to the first and second VCOs. The final action states that "Gardner teaches a synthesizer, element number 52 and 64, that receive the first and second VCO output frequency signals and also provide

the transmitter input signals via numbers 56, 1, and 2, in figure 2 (column 4, lines 47-49)”. Applicants noted the error in this characterization of Gardner noting that claim 1 requires, for example, that the transmitter input signal is provided by the synthesizer to both the first and second VCOs and that the claimed synthesizer also receives the first and second VCO output frequency signals. In the Gardner reference, the alleged synthesizer (element numbers 52 and 64) in fact, does not provide the transmitter input signal to both of the VCOs as alleged by the Examiner and as required in the claim since the elements alleged to correspond to the claimed synthesizer in Gardner do not output a common signal to VCO 60 or 68. In addition, Applicants note that the cited elements 56, 1 and 2, are, as admitted in the office action, not part of the alleged synthesizer (element numbers 52 and 64) and as such, the reference teaches a different structure and operation from that claimed by Applicants.

Applicants also respectfully submit that the office action was also improper since it did not properly address claim language since it used different claim language, namely “transmitter input signals” in an attempt to render Applicants’ claims unpatentable. The office action also did not identify which signal in Gardner corresponded to the claimed “transmitter input signal”.

In response to Applicants’ notification of the deficiency in the final action and first action, the Advisory Action stated:

Gardner’s transmitter input signal originates from microphone 30 which is sent to the oscillation circuits (column 3, lines 60-65). As can be seen by figure 2, the output of the microphone 30 is sent to both Comm Circuits 1 and 2, element numbers 54 and 66, which were interpreted as the claimed synthesizer in the previous office action.

Not only did the Advisory Action for the first time identify what the Examiner was interpreting the term “transmitter input signal” to be – originating from microphone 30, but the Advisory Action also contradicted the Examiner’s previous identification of which elements correspond to the claimed synthesizer. In the Advisory Action, the office action

stated that the claimed synthesizer corresponded to element numbers “54 and 66”. However, these are the communication circuits in Gardner. In the final action, the Examiner indicated that elements 52 and 64 corresponded to the claimed synthesizer. The office action used contradictory and inconsistent arguments that used different elements in an effort to allegedly correspond to Applicants’ claimed synthesizer and its operation. Such inconsistencies are improper. Accordingly, the rejection should be withdrawn since the rejection did not provide a *prima facia* case of obviousness.

In any event, the alleged “transmitter input signal” that originates from the microphone 30 in Gardner does not go to the oscillators 60 and 68 in Gardner which is required by the claim. Accordingly, for argument sake even if the Examiner’s position were to be accepted as true, the reference does not teach what the Examiner alleges and for this reason as well, the rejection should be withdrawn.

In addition, the claim requires that the synthesizer provides the transmitter input signal (the same signal) to both the first and second VCOs. For argument sake, if elements 52 and 64 that were alleged to correspond to the claimed synthesizer are taken to be a synthesizer, then it is these elements that must operate as the claim requires in order for the claim to be unpatentable. However, these elements 52 and 64 in Gardner do not provide the same transmitter input signal to the first and second VCOs as required by the claim. Gardner teaches using separate tuners that are required for separate VCOs and does not disclose what is alleged in the office action and as such, Applicants respectfully submit that the rejection should be withdrawn.

The dependent claims also add additional novel and non-obvious subject matter.

Claim 15 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Portin in view of Gardner. Applicant respectfully reasserts the relevant remarks made above and as such this claim is also believed to be in condition for allowance.

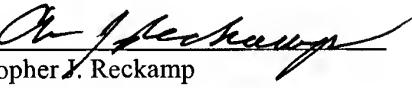
Claim 16 and 17 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Portin and Gardner further in view of Heinonen. Applicant respectfully reasserts the relevant remarks made above with respect to Claim 15 and as such these claims are also believed to be in condition for allowance.

Since the references do not teach the claimed subject matter nor do they teach what is alleged in the office action, Applicants respectfully submit that the claims are in condition for allowance.

Reconsideration and withdrawal of the rejection of the claims is respectfully requested. A Notice of Allowance is also respectfully requested.

Respectfully submitted,

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